

Attorney General's Office of Victim Services
FY 2005 Victims' Rights Program (VRP)

VRP GUIDELINES

I. PROGRAM PURPOSE

The Victims' Rights Program (VRP) was established to promote, improve, maintain, and enhance the ability for victims of crime to become an integral part of the criminal justice process. The intent of the Program is to provide financial relief to local and state entities affected by ARS Title 13, Chapter 40 (*Crime Victims' Rights*) and ARS Title 8, Chapter 3, Article 7 (*Victims' Rights For Juvenile Offenses*), to encourage efficient and effective use of resources to meet statutory requirements, and to promote statutory compliance aimed at ensuring victims' access to justice. VRP monies are to be used to supplement budgeted funds and not to replace (supplant) budgeted funds and resources.

The goals of the Victims' Rights Program are to:

- L** Improve the quality of justice through the adoption or modification of policies and procedures that provide for implementation of criminal and juvenile victims' rights laws;
- L** Promote meaningful participation for victims in the criminal and juvenile justice processes by assuring that affected agency and court personnel achieve a factual and practical understanding of victims' rights provisions and their responsibilities thereunder;
- L** Establish and maintain systems and procedures to provide for accurate and efficient victims' rights notification operations;
- L** Stimulate efforts to economize the resources required for meeting statutory mandates through the use of technology;
- L** Minimize the potential duplication of efforts and resources, by and between, those entities whose duties are mandated under both juvenile and criminal victims' rights statutes; and,
- L** Encourage quality, coordination and uniformity in the development and use of forms and other materials that are given to victims as a means of communicating or relaying victims' lawful rights.

II. ELIGIBILITY FOR VRP FUNDS

VRP funding may be awarded to government entities identified and charged in ARS Title 13, Chapter 40 and ARS Title 8, Chapter 3, Article 7, with providing services which aim to ensure victims' access to justice and due process in the criminal and juvenile justice systems.

Law enforcement agencies with victims' rights responsibilities include all *municipal police and county sheriff departments*. As **custodial** agencies, *sheriff departments* and *juvenile detention centers* also have victims' rights duties by virtue of their authority over jail operations and facilities and jurisdiction to detain juveniles. The **prosecutorial** agencies that provide victims' rights services include all *City Prosecutor, County Attorney* and *Attorney General's Offices*. The **Attorney General's Office** also has victims' rights obligations when it represents the State in direct appeals. **Courts** having obligations under victims' rights

laws include *Justice of the Peace* and *Municipal Courts*, as well as *County Superior Courts* and **Probation Departments**. **Juvenile Courts'** obligations under victims' rights laws are exercised primarily through their **Juvenile Probation Departments**. The **Department of Corrections**, **Department of Juvenile Corrections**, **Board of Executive Clemency**, and **Department of Health Services** are state agencies that have victims' rights duties related to a defendant's incarceration, treatment and release status.

III. VRP PRIORITIES

(in accordance with applicable ARS sections and subsections)

- U Notifying legal entities in accordance with § 13-4404.1-3 and § 8-385.1-3;
- U Informing/notifying victims, upon initial contact, of community resources, rights information and request/waiver procedures, in accordance with § 13-4405(A)-(F) and § 8-386(A)-(F);
- U Informing/notifying victims of arrests in connection with § 13-4405(A)(3)(f) and § 8-386(A)(3)(f);
- U Informing/notifying victims of releases in connection with § 13-4405(A)(3)(g) and § 8-386(A)(3)(g);
- U Informing victims of the date, time, and place of initial appearance(s) pursuant to § 13-4405(A)(3)(g) and § 13-4406;
- U Providing victims with a copy of terms and conditions of release pursuant to § 13-4407 and § 8-387;
- U Notifying victims of the conditions of juveniles' acceptance into diversion programs, including restitution requirements, and notifying victims of juveniles' completion or termination from diversion programs in accordance with § 8-388;
- U After charging, notifying victims of their preconviction/predisposition rights, how a case is prosecuted, the charges filed against the accused, how to confer with the prosecutor, and who to contact for more information, pursuant to § 13-4408(A) and § 8-389(A);
- U Notifying victims of the reasons for declining to proceed with prosecutions and notifying victims of the right to confer with the prosecutor prior to declination pursuant to § 13-4408(B) § 8-389(B);
- U Notifying victims of scheduled proceedings in accordance with § 13-4409(C) and § 8-390(D);
- U Notifying victims of conviction, adjudication, acquittal, transfer to adult court, or dismissal of charges against defendant(s) pursuant to § 13-4410(A) and § 8-391(A);
- U Prior to sentencing/disposition, if the defendant is convicted/adjudicated delinquent, notifying/informing victims of the following in accordance with § 13-4410(B)(C) and § 8-391(B)(C): the function of the presentence/predisposition report and the victim's right to view it, excluding excised portions; the victim's right to make a victim impact statement and what that statement may contain; to be present and heard at any presentencing/predisposition or sentencing/disposition proceeding, to have a judgment entered for any unpaid restitution that is ordered, and the right to file a restitution lien; time, place and date of sentencing/disposition proceedings; and, the name and telephone number of the probation department that is preparing the predisposition report;
- U Notifying victims of sentence(s)/disposition(s) imposed on defendant(s) pursuant to § 13-4411(A) and § 8-392(A);
- U Providing victims with a form to request notice of all postconviction/postadjudication review and appellate proceedings, postconviction/postadjudication release proceedings, probation/conditional liberty proceedings, and the decision(s) that arise out of those proceedings, pursuant to § 13-4411(B) and § 8-392(B);
- U Notifying victims of postconviction/postadjudication or appellate proceedings and the decision(s) arising out of those proceedings in accordance with § 13-4411(D) and § 8-392(D);
- U Notifying victims of postarrest releases and escapes of defendants, including those that may occur after defendants are detained or confined to secure care facilities, and notifying victims of subsequent rearrests as applicable, in accordance with § 13-4412(A)(B) and § 8-393(A)(B);
- U Notifications to victims in matters relating to prisoner/delinquent status pursuant to § 13-4413(A)(B)

and 8-394(A)(B);

- U** Notifying victims of earliest release dates and actual releases of prisoners/delinquents, and in the event of prisoner/delinquent death, notifying victims of same in accordance with § 13-4413(A)(B) and 8-394(A)(B);
- U** Notifying victims of postconviction/postadjudication release from confinement proceedings, the right to be present and heard at these proceedings, and the decisions reached in accordance with § 13-4414(B)(C) and § 8-395(A)(B)(C);
- U** Notifying victims of proceedings scheduled to consider revocation and/or termination of probation, intensive probation, or conditional liberty, proceedings to consider modifications to terms of probation, intensive probation, or conditional liberty and probation/conditional liberty violation arrests pursuant to § 13-4415(A)(B)(C) and § 8-396(A)(B)(C)(D)(E)(F);
- U** Notifying victims of the release, discharge, or escape of persons who are placed by court order in mental health treatment agency(ies) when those persons are the accused, or have been convicted/ adjudicated delinquent for committing the offense against the victim, including notification of readmission, in accordance with § 13-4416(A)(B) and § 8-397(A)(B);
- U** Developing forms and maintaining a system for receipt of forms in accordance with § 13-4417(B)(C) and 8-398(C);
- U** Providing copies of presentence/predisposition reports to victims pursuant to § 13-4425 and § 8-404(C);
- U** Informing victims of defendant/defense counsel's request for interview(s) and the right to decline or set conditions on interviews in accordance with § 13-4433(A)(B) and § 8-412(A)(B);
- U** Informing defendant/defense counsel of time, place, and other conditions of victim-granted interview(s) in accordance with § 13-4433(D) and § 8-412(D);
- U** Informing victims of their right to leave work to attend court proceedings, pursuant to § 13-4439 and § 8-420.

As defined by ARS § 13-4401.18 and 8-382.16, *victim* means a person against whom a criminal offense or delinquent act has been committed, or if the person is killed or incapacitated, the person's immediate family or other lawful representative, except if the person is in custody for an offense or is the accused. Legal entities and neighborhood associations are also entitled to limited rights in certain instances.

As defined by ARS § 13-4401.6 *criminal offense* means conduct that gives a peace officer or a prosecutor probable cause to believe that a felony, a sexual offense, or a misdemeanor involving physical injury, or the threat of physical injury has occurred. As defined by ARS § 8-381, a *delinquent act* means an act committed by a juvenile that, if committed by an adult, would be either a felony or a misdemeanor involving physical injury, the threat of physical injury, or a sexual offense.

IV. VRP COSTS: ALLOWABLE and NON-ALLOWABLE

Monies awarded in the FY 2005 Victims' Rights Program are for the period of July 1, 2004 through June 30, 2005.

1. **Allowable costs** under the VRP are those that can be proven necessary and essential to effect the direct provision or performance of those statutorily-mandated victims' rights duties (*services*) that are identified as *VRP Priorities per Section III of these Guidelines*. In accordance with the following guidelines, allowable costs for the period of July 1, 2004 to June 30, 2005 include:

- ⌋ **Personnel** (Personal Services) costs such as the percentage of base salary for employee(s) involved in the provision of priority victims' rights services *as it correlates to the percentage of time spent performing priority service duties*. This includes supervision of *volunteers* who provide mandated services.
- ⌋ **Employee Related Benefit** costs commensurate with salary percentage, such as FICA taxes; health and accident insurance; life, accidental death, and dismemberment disability insurance; unemployment compensation, workers' compensation; and retirement.
- ⌋ **Consulting (professional & outside/contractual services) costs** such as computer systems' analysts and programmers, monthly fees for contracted automated victim notification services, professional printing services, and other personnel who may be hired on a contractual basis for the explicit purpose of providing resources necessary for accomplishing priority VRP services. [Use of monies for consulting costs related to training is generally *non-allowable*.]
- ⌋ **Operating costs** including the following:
 1. Postage and Delivery Services
 2. Telephone (ATS Services, Line Costs, Station Equipment, Long-distance)
 3. Photocopying
 4. Printing
 5. Equipment Contract Maintenance (*if equipment is 100% chargeable to victim rights' usage*)
 6. Operating Supplies
 - a. Data Processing
 - b. Envelopes, Stationery and Office Forms
 - c. Office Furniture (*under \$500*)
 - d. Office Reproduction Supplies
 - e. Miscellaneous Operating Supplies
 - f. Miscellaneous Office Supplies
 7. Data-Processing Software
- ⌋ **Equipment costs** such as personal computers and other capitalized furniture and equipment purchases (more than \$500) which have a substantial impact of permanently enhancing priority victims' rights service compliance, and is utilized 100% for priority-service activity.

Generally, equipment costs are allowable for purchases that directly aid and benefit an agency or court's ability to meet mandated victims' rights notification requirements. Purchase and disposition of equipment, where approved, must be according to applicable governing authority guidelines.

The Attorney General's Office does not retain ownership interest in equipment acquired with VRP funds (or in the proceeds resulting from the sale of such equipment) as long as: (1) the

equipment purchase was not in violation of the VRP Award Agreement; and (2) the useful life of the equipment in question has elapsed.

2. **Non-allowable costs** under the VRP (in addition to those noted above) are those that are non-essential to the direct provision or performance of priority victims' rights services. Non-allowable costs for the period of July 1, 2004 - June 30, 2005 include:

- ; **Personnel costs** for: a) overtime pay; b) program administration or supervision of personnel (except for supervision of volunteers who provide mandated services); and c) prorated personnel costs for employees' time spent performing priority service duties that, were it not for a victims' rights mandate, would be performed anyway -- are non-allowable.
- ; **Administrative costs** that may only indirectly or tangentially support victims' rights activities. Such costs include, but are not limited to: training, advertising, depreciation, utilities, rent, books, dues, subscriptions, insurance (liability, risk management, property, etc.), pagers, mobile phones, equipment maintenance, travel, lodging, per diem, and capital outlays. Costs for equipment purchases that only indirectly aid, or have the ancillary effect of aiding victims' rights notification, while substantially aiding an agency's or court's business automation needs unrelated to mandated notification requirements are non-allowable.
- ; **"Professional Responsibility" costs** which are those that may be essential to the provision of priority victims' rights services but, were it not for a victim's rights mandate, the service duties: a) would be performed anyway or b) are performed in consort or tandem with other professional duties to the extent that cost impact (in time and resources) is negligible or indiscernible.
- ; **Costs associated with** the provision of victims' rights services that, while mandated, are not identified as *VRP priorities*, and costs associated with the provision of *victim assistance* services. Such services include, but are not limited to: community referrals, crisis response/intervention, supportive counseling, court orientation, court accompaniments, transportation, employer/creditor intervention, child care, outreach, etc.
- ; **Costs are also considered non-allowable if** services or materials are otherwise available; or, alternative funding sources are available for such costs; or, the Attorney General determines that such costs are unreasonable or otherwise non-allowable under these Guidelines.

EXAMPLE: Pro-rated personnel expenditures for law enforcement officers' time spent informing victims, pursuant to § 13-4405 or § 8-286, where the practice of informing victims entails giving a Victims' Rights Request/Waiver form in conjunction with performance of other professional duties; and, to the extent that cost impact in time and resources expended in this victims' rights activity, is negligible or indiscernible from the other professional duties being performed.

3. All costs and expenditures under the VRP are subject to these Guidelines. Where Guidelines are lacking, costs must be proven to be within the bounds of reason. The Attorney General reserves the right to final decision-making authority regarding cost allowances.
4. As required by victims' rights funding laws, VRP monies shall not be used to supplant state, local, and federal funds that would otherwise be available to provide services to victims of crime and delinquency.

Note: Supplanting is a form of noncompliance with the (legislative) directive that VRP monies shall be spent for the purposes of implementing specific provisions of ARS Title 13, Chapter 40 and Title 8, Chapter 3, Article 7. If the use of monies designated for victims' rights compliance, and the contemporaneous diversion of monies that would otherwise have been available for use for this purpose, has the net effect of producing less direct benefit or no direct benefit for victims' rights implementation -- it therefore defeats the original specification, while appearing to obey it, and can be regarded as "supplanting." Supplanting takes various forms, but for purposes of the VRP, the prohibition on supplanting means VRP funds may not have the effect of freeing funds from other sources (eg: general fund) for other purposes that, until the receipt of VRP monies, had been used to support the provision of mandated services to crime victims.

5. The public official of the agency or court designated by *Crime Victims' Rights* and *Victims' Rights for Juvenile Offenses* statutes as responsible for the performance of duties pursuant to the legislation, and who is a recipient of a VRP award, shall have, as approved by the Attorney General, direct and sole authority for its expenditure within the public official's jurisdiction.
6. Any FY 2005 VRP monies awarded to an agency or court that are not expended by June 30, 2005, must be returned to the Attorney General.

V. FUND AWARD APPROACH AND DISBURSEMENT

In accordance with the provisions under ARS § 41-191.06 and § 41-191.08, the Attorney General's approach to the disbursement of VRP monies in FY 2005 is as follows:

1. All FY 2004 recipients of VRP monies are considered program **participants** for the purpose of fund disbursement under the FY 2005 VRP and are not required to apply for funding as long as all FY 2003 VRP reporting requirements have been satisfied.
2. Conversely, program **applicants** -- for the purpose of fund disbursement under the FY 2005 VRP -- are agencies or courts that: a) are eligible to receive victims' rights funding pursuant to the specifications found in Section II of these Guidelines, b) are not current-year, FY 2004 recipients of VRP monies, and c) subsequently submit an FY 2005 VRP **funding application** to the Attorney General. Note: no applications were solicited nor therefore submitted for FY 2005.
3. The level of funding projected to be available for award on a non-application basis in FY 2005 is **88% of the FY 2005 Victims' Rights Fund balance** and is allocated, in entirety, to VRP participants.
4. Initially, each VRP participant is **allocated** monies in a percentage that is proportional to that participant's percentage of the total fund monies disbursed to all recipients in FY 2004.
5. The Attorney General will **review** participants' FY 2003 annual reports, as well as audit reports and other materials that lend to an evaluation of performance by the entities that receive funding. The Attorney General may adjust participants' initial allocations or deny continued funding to any entity that fails to effectively implement or comply with victims' rights mandates. Any such adjustments will have the effect of proportionally modifying the percentage share of funds subsequently awarded to all participants.
6. If applicable, participants must provide a timely response to a **Performance Review**, that may address FY 2003 VRP fund use, victim service levels, audit recommendations, plans for use of VRP monies in FY 2005, and any other issues or concerns identified by the Attorney General. Participating entities that received funds for the first time in FY 2004 may also be required to complete and submit an FY 2005 Performance Review for Attorney General review, pursuant to the requirements prescribed in Section VI of these Guidelines.

7. Non-participants (applicants) that submit applications per the forms and instructions issued by the Attorney General will be awarded funds according to the approach described in Section VII of these Guidelines. Note: no applications were solicited nor therefore submitted for FY 2005.
8. Disbursement of final FY 2005 VRP awards will follow the process outlined in Section VIII of these Guidelines.

VI. PERFORMANCE REVIEW FOR FIRST YEAR PARTICIPANTS

In order to be eligible for FY 2005 funding, agencies and courts that received funding for the first time in FY 2003, may be required to provide a Performance Review, addressing the following:

- N** If applicable, responses to selected Attorney General inquiries regarding FY 2004 victim service level and use of VRP funds.
- N** A detailed proposal for use of FY 2005 VRP funds.
- N** An explanation of how continued participation in the VRP will serve to facilitate compliance, enhance services, or increase the provision of victims' rights services; and
- N** Any other issues or concerns identified by the Attorney General's Office.

VII. APPLICATION REVIEW

VRP applicants may be awarded funds provided that:

1. The agency or court has completed, signed and returned an application, including a list of warranties in accordance with guidelines and instructions set forth by the Attorney General's Office;
2. The agency or court is mandated to perform certain duties pursuant to applicable sections of victims' rights statutes that, when implemented, imply a monetary impact; and,
3. Sufficient documentation and information are provided in the funding application for reviewers to determine:
 - N** the extent to which an applicant is statutorily and financially affected by victims' rights laws;
 - N** the applicant's plan for the use of requested monies, if applicable, and the costs associated with plan activities;
 - N** other funding and resources available to the applicant for the award period for which VRP funding is requested.

Review of applications will encompass procedures to assess the financial impact and need of entities, each entity's level of performance in implementing victims' rights statutes, and an evaluation of funding requests in relationship to applicants' plans for the efficient and effective use of funds to meet statutory obligations. The approach for evaluating applications is as follows:

1. Applications will be reviewed initially to assess applicant eligibility and compliance with Guidelines and instructions for reporting performance and cost data.

2. The number of victims' rights services reported, and the financial impact of those services, will be reviewed and evaluated. Performance and cost data will be compared with data reported by like-entities in previous fund award cycles.
3. Funding recommendations to the Attorney General will consider the following:
 - N** each applicant's funding request in relationship to total funds available for award;
 - N** each applicant's evidence of the necessity of funding for developing additional activities that would increase the efficient or effective provision of crime victims' rights services;
 - N** the reasonableness of each applicant's funding and budget requests in light of actual costs, projected costs, and financial support anticipated from other sources;
 - N** cost-effective delivery of mandated services by each applicant in FY 2002; and;
 - N** accuracy and thoroughness of completed application.

VIII. VRP FUND AWARD PROCESS

The process for awarding FY 2005 VRP funds is as follows:

1. The Attorney General notifies participants and applicants of FY 2005 **funding awards** in **April**.
2. The Attorney General solicits budget information in **May**.
3. Recipients complete and return **budget proposals** to the Attorney General.
4. Attorney General reviews budget proposals, ensuring that budgeted expenditures are reasonable and in compliance with VRP Guidelines, and mails **funding agreements**.
5. Recipients secure approval of VRP agreements from governing authority (City Council, Board of Supervisors, etc.), and return executed documents to the Attorney General.
6. The Attorney General mails award checks beginning in August, 2004 to recipients from whom signed agreements have been received. Award checks can be disbursed at one time, quarterly or monthly.
7. Budget modification requests can be submitted at any time during the 2005 award period. However, requests should be done as soon as possible as approval is not guaranteed.
 - < If a budget modification request is for less than 10% of the total VRP award amount, and will be used among existing budget categories, a written request form is not necessary. However, to receive approval, the Attorney General's Office must be notified in writing of the proposed modification. All programs are limited to three modifications, of this type, per award period.
 - < If a budget modification request is for more than 10% of the total VRP award amount, involves a new budget category, or is in excess of the limit of three requests per award period, the Attorney General's Office must be contacted and a Budget Modification Form must be requested. The requesting agency must return the completed form to the Attorney General's Office for

consideration. The agency will then be notified of whether or not the modification request will be approved.

IX. REPORTING REQUIREMENTS

Pursuant to ARS § 41-191.08(F), entities that receive victims' rights funding are required to complete and submit an annual report to the Attorney General documenting the expenditure of VRP funds and the level of service achieved in FY 2005. **The FY 2005 Annual Report must be received by the Attorney General on or before Friday, August 19, 2005.** Any FY 2005 VRP monies awarded to an agency or court that are not expended by June 30, 2005, must be returned to the Attorney General. The annual report must disclose any interest earned on VRP funds by the recipient during the fiscal year. Interest earned in FY 2005 must be applied to that year's VRP-eligible expenses, or be returned to the Attorney General pursuant to annual report submittal instructions.

FY 2005 VRP Funding Agreements stipulate a financial-impact penalty relative to subsequent fiscal year funding for failure to submit the annual report by the specified due date. The Attorney General will reduce VRP funding to a late-reporting agency or court in FY 2007, according to the schedule below:

# BUSINESS DAYS LATE	One -Five days [postmarked 8/22 - 8/26/05]	Six - Ten days [postmarked 8/29 - 9/2/05]	11 - 15 days [postmarked 9/5 - 9/9/05]	16+ days [postmarked 9/12/05 or later]
% OF FY 2007 REDUCTION	5%	10%	15%	25%